

CAA: The Myth and The Reality¹

As student of law and a citizen of India, it's high time for me to put my opinion about CAA from legal, social and financial point of view and not as a Muslim, Hindu or whatever the religion it may be.

Legality is the first aspect of any law which means that whether the is according to the grund norm of the country or not and in our case whether it is in accordance of the Indian Constitution or speaking more literally whether it is in accordance of the spirit of the constitution or not. Protests are going on in the country that the Citizenship Amendment Act (CAA) is in violation of the Article 14 of the Constitution as it grants citizenship on the basis of religion. Particularly speaking about Article 14, it guarantees equality before law and equal protection of law irrespective of citizenship which means is available to all the people (and not only the citizen) within the territory of India. This law doesn't guarantee that each and every person will be treated equally. As India is welfare democratic state, there is no absolute right guaranteed in the Constitution and even Fundamental Rights are subject to restrictions and so does Article 14. Article 14 guarantees "equality before law" which means that equal should be treated equally i.e. in a class of equals, they are to be treated equally.

Now coming on CAA, it excludes Muslims from Pakistan, East Pakistan (now Bangladesh) and Afghanistan. These three countries have Islam as there State religion. So those who are Muslim come under a separate class and rest come under a separate class. The CAA applies on the rest (excluding Muslim) and form a separate class which is treated equally under CCA. So in fact there is no violation of Article 14. Now the question arises that what about those whom the Pakistan Constitution does not recognize as Muslims. Well it's only a matter of recognition, they themselves believes in Islam and that will prevail over, further it's a different matter of Pakistan that they are not recognizing them as Muslim. Surely if they recognize themselves through other religion, they will come under the rest of the separate class and surely they will be covered under CAA. Same goes to Bangladesh. In short it is clear that CAA is constitutionally valid.

Now after the Supreme Court refuses to stay on the CAA there is change in the behavior of political parties and people who protesting against the CAA from its constitutionality to social

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issues which is second criteria to determine the stability of law in the society. If we see, the most protests are from western states mainly Assam because Assamies have their different culture, language and demography. They are concerned to protect that rather than to whom the citizenship is granted. They has a fear that those who will be granted citizenship under CAA are mostly in western state and they will stay there which will lead to damage their culture as happened in past for which Assam Accord was signed. The current government made it clear that those who will be granted citizenship under new CAA were not is allowed to stay in Assam and moreover there is concept of Inner Line Permit (ILP) for western state under which no outsider can go to ILP districts without the permission of concerned government nor they can stay there. Now the government is proposed that to protect the culture, the land there can be sold to only the Indigenous people of these people of western states and all the land there is of Indigenous people. The threat which remains to people of Assam is that the few districts does not have ILP concept which should be granted to them immediately.

Talking about the rest of the country which are in solidarity with western states, their views are that there is no need of CAA because as there is already unemployment in the country, economy is slowing down and if more people will be granted citizenship that will damage economy further. As we can see, the CAA does not provide citizenship to people who will come after 31st December'2014. It grants citizenship to only those who have already come and residing in Indian Territory. It doesn't matter that economy is shrinking down or there is unemployment, anyways they will remain in the country.

Now the last aspect of any law without which no government can implement any law effectively is financial aspect. The protester arguing that the proposed NRC in Assam alone cost 12000 cr. by which 19 lakes were found illegal immigrants. And if it is done in whole country it cost huge amount to government and for the now government does not have that numbers. Well government in not going to take such step without that number and neither they can take. It will take time. Moreover NRC done Assam took such a huge amount and time because it is the state which has indeed most of the illegal immigrants. By this NCR the pitfalls came to known and now if it is done further it can be done very effectively. Further if these illegal immigrants are to be kept in detention centre it will cost government more than the NRC done in the Assam

because then the government have to provide them food, shelter, education, medical facility and what not as they then will not be able to generate that all own their own.

Now the most important aspect is what about the one who are left without citizenship after CAA. Whether they will remain stateless, whether they will be deported back to the same place from where they were fled away or they will be kept in detention centers?

According to me whatever has been done by government is constitutionally right but there is indeed a moral wrong with those who are left in statelessness. Government should provide employment to these people who are left and should make a provision that they will be granted citizenship if they would be capable to earn own their own. Instead I'm of the opinion that those whom citizenship granted should be granted provisional citizenship with a condition that within a reasonable time period they should earn their own bread otherwise their citizenship will be ceased. Indeed government should help them in this by providing employment, opportunity and whatever it may be. By this way they will not burden on the economy and even help to grow the economy.

Lastly, there are rumors going on that this CAA is prejudice to the rights of the Indian Muslim community which is a myth. It is well cleared fact now that is nothing to do with the existing citizen of the country irrespective of their religion. If it would have to do anything with them the Supreme Court would have stayed CAA in the first place. And there is also one thing that how one will prove his citizenship, there stay in India back to Independence or 1971 whatever it may be, mainly those who are illiterate. This was the lacuna in NRC, indeed which was done in Assam. Now the government has made it clear that reforms are on its way and some of them are that they can prove by voter list, the most known person in village can prove their status and many more which without any documentation of their own.